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GENEVA MTN GENEVA BRUSSELS APRIL 15; REPEATED TO YOU QUOTE

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SUBJECT: APRIL 21-25 TCWP MEETING ON GOVERNMENT PROCURE-
MENT

1. GUIDANCE FOLLOWS FOR US DELEGATION TO OECD TRADE COM-
MITTEE WORKING PARTY MEETING TO DISCUSS GOVERNMENT PROCURE-
MENT ISSUES. DELEGATION SHOULD BE GUIDED BY EARLIER IN-
STRUCTIONS UNLESS OTHERWISE INDICATED. PARAGRAPH REFEREN-
CES BELOW REFER TO THE NEW REVISED DRAFT INSTRUMENT
(TFD/TD/840).

2. US DEL SHOULD MAKE A CONCERTED EFFORT TO CONVINCE ALL
DELEGATIONS THAT EARLY COMPLETION OF AN AD REFERENDUM TEXT
OF THE DRAFT INSTRUMENT IS IN BEST INTEREST OF WORKING
PARTY. CONCLUSION AT LAST MEETING WAS THAT WORK ON GOVERN-
MENT PROCUREMENT SHOULD CONTINUE IN THE PRESENT FORUM.
HOWEVER, MANY DEVELOPING AND SOME DEVELOPED COUNTRIES AT
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GENEVA NTB SESSIONS HAVE EXPRESSED INTEREST IN GOVERNMENT

PROCUREMENT AND OECD WORK. US POSITION IS THAT THIS ISSUE DOES NOT APPEAR TO BE QUITE RIPE FOR CONSIDERATION IN GENEVA.

3. SURVEILLANCE, NON-DISCRIMINATION, BILATERAL CONSULTATIONS AND APPEAL PROCEDURES -- U.S. DEL SUBMITTED TEXT TO OECD SECRETARIAT FOR DISTRIBUTION TO ALL GOVERNMENTS FOR STUDY AND USE AT TCWP MEETING. (TFD/TD/842), TEXT IS

INTENDED TO PROVIDE A BASIS FOR FURTHER DISCUSSION OF ALL MATERIAL IN TFD/TD/840, SECTION IV (PARAGRAPHS 36-41). IT SHOULD BE STRESSED THAT THE TEXT TAKES INTO ACCOUNT THE DISCUSSIONS HELD IN THE ABOVE-MENTIONED SUBJECTS AT THE LAST MEETING AND PROVIDES A BASIS FOR MORE RAPID PROGRESS IN DISCUSSIONS OF THESE AREAS OF THE PROPOSED AGREEMENT.

4. EXCEPTIONS (PARAGRAPH 7) -- LANGUAGE IN BRACKETS ALLOWS EXCEPTIONS TO PROCEDURES SET OUT IN INSTRUMENT FOR PURCHASES ON BEHALF OF A NATIONAL GOVERNMENT NOT A PARTY TO THE INSTRUMENT OF AN INTERNATIONAL ORGANIZATION. U.S. W WISHES TO GUARD AGAINST COUNTRIES ENTERING INTO VARIOUS AGREEMENTS WHICH CALL FOR MUTUAL PURCHASING THAT COULD LIMIT THE SCOPE OF APPLICATION OF INSTRUMENT. AT LAST MEETING A NUMBER OF COUNTRIES ARGUING FOR THE EXCEPTIONS DID NOT APPEAR SURE OF THE NECESSITY FOR THEM. THE U.S. SHOULD PRESS THE PROPONENTS TO DEFINE PRECISELY THE PROTECTION THEY FEEL IS NECESSARY, AND TO DRAFT NARROW, APPROPRIATE LANGUAGE TO FIT THESE SITUATIONS.

5. SINGLE TENDERING (PARAGRAPH 14) -- U.S. DEL SHOULD CONTINUE TO PRESS FOR ACCEPTANCE OF THE WORD QUOTE COLLUSIVE END QUOTE INSTEAD OF QUOTE IRREGULAR BIDS END QUOTE IN ORDER TO LIMIT THE APPLICABILITY OF PARAGRAPH 14 AND TO PREVENT UNFORESEEN USE OF THE IMPRECISELY DEFINED LATTER TERM. STANDARDIZATION EXCEPTION SHOULD CONTINUE TO BE OPPOSED. IF REVISED TEXTS OF PARAGRAPHS 14(5) A AND C, AND 14(6) ARE SUBMITTED, THEY SHOULD BE REVIEWED CAREFULLY FOR LIMITATION OF SCOPE AND ABUSE. U.S. DEL SHOULD REQUEST PAPERS FROM PROPONENTS OF 14(7) DETAILING THEIR GOVERNMENTS' USE OF COMMODITY MARKETS IN ORDER TO LIMITED OFFICIAL USE

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EVALUATE NEED AND SCOPE OF SECTION. FINAL SENTENCE CONTAINS NEW U.S. PROPOSAL FOR THE PROVISION OF INFORMATION ON EACH USE OF SINGLE TENDERING, AND SHOULD BE DEFENDED IN LIGHT OF FIRST SENTENCE OF PARAGRAPH 14 WHICH MAKES REFERENCE TO PARAGRAPH 16.

6. TELEX OR TELEGRAM (PARAGRAPH 20) -- U.S. SUPPORTS ENTIRE BRACKETED PARAGRAPH.

7. BID OPENING (PARAGRAPH 27) -- U.S. DEL SHOULD CONTINUE TO SUPPORT RETENTION OF SECOND VERSION WHICH PROVIDES FOR THE PUBLIC OPENING OF BIDS AND DISCLOSURE OF THE NAMES OF BIDDERS AND PRICES OF BIDS, IN OPEN PROCEDURES.

8. CONDITIONAL AWARDS (PARAGRAPH 32) -- DEL SHOULD BE GUIDED BY PREVIOUS INSTRUCTIONS.

9. THRESHOLD (PARAGRAPHS 4 AND 13) AND STATISTICAL DATA- THERE IS OBVIOUS TRADE IMPORTANCE TO CONTRACTS OF A SIZE LESS THAN 200,000 DOLS., YET U.K. AT LAST MEETING STATED IT HAD NO INTENTION OF AGREEING TO THRESHOLD UNDER THIS AMOUNT. NO EXACT THRESHOLD AMOUNT HAS BEEN DETERMINED BECAUSE ADDITIONAL DATA NECESSARY TO EVALUATE IMPORTANCE OF VARIOUS LEVELS OF PURCHASES UNDER 200,000 DOLS. NOT YET SUBMITTED. AT LAST MEETING SEVERAL COUNTRIES GAVE VARYING REASONS OR EXCUSES FOR NOT PROVIDING ADDITIONAL DATA. SECRETARIAT HAS BEEN INSTRUCTED TO PREPARE SYNOPTIC ANALYSIS OF DATA SUBMITTED INCLUDING INDICATION OF DEFICIENCIES. U.S. DEL SHOULD RESIST ATTEMPTS TO DETERMINE THRESHOLD AND SUPPORT THESIS THAT THRESHOLD SHOULD BE DETERMINED ONLY AFTER RECEIPT OF DATA ON WHICH TO MAKE JUDGMENT.

10. DEROGATIONS (SECTION III) - AT LAST MEETING FRENCH EXPRESSED STRONG INTEREST IN DISCUSSING DEROGATIONS. THE U.S. HAS TAKEN A FIRM NEGOTIATING POSITION AGAINST ANY DEROGATIONS AND SHOULD NOT BE CHANGED AT THIS TIME.

11. FINAL PROVISIONS (SECTION V) - CONTAINED IN THE TEXT SUPPLIED BY THE U.S. FOR CIRCULATION BY THE SECRETARIAT (TFD/TP/842) IS A QUOTE SECTION VI END QUOTE WHICH COVERS LIMITED OFFICIAL USE

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A NUMBER OF ITEMS NOW IN SECTION V OF THE DRAFT INSTRUMENT: BINDING POWER OF INSTRUMENT, NATIONALS AND COMPANIES BENEFITTING FROM INSTRUMENT, EXTENSION OF EQUAL OR MORE FAVORABLE TREATMENT, AND THE NEEDS OF DEVELOPING COUNTRIES. U.S. DEL SHOULD BE PREPARED TO DISCUSS EACH PROPOSAL IN DETAIL.

12. OTHER - (A) PROTESTS (PARAGRAPH 34) - U.S. IS FORWARDING TEXT ON U.S. RULES FOR PROTEST, FOR OUR RESPONSE TO SECRETARIAT.

13. TIMING OF NEXT MEETING - U.S. DEL SHOULD BE GUIDED BY PROGRESS ACHIEVED AND VIEWS OF OTHER DELEGATIONS, BUT SHOULD USE BEST EFFORTS TO MAINTAIN MOMENTUM OF DISCUSSIONS. KISSINGER UNQUOTE KISSINGER

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